

REVISED GENERAL GUIDELINES  
FOR REIMBURSEMENT OF WITNESS FEES BY THE OFFICE OF  
ATTORNEY GENERAL  
August 2005

What qualifies for reimbursement from the Attorney General's Office?

Prosecution witness fees and expenses in district court criminal proceedings (N.D.C.C. § 31-01-16).

Expert prosecution witness fees in criminal district court proceedings.

Witness fees and expenses in juvenile cases (N.D.C.C. §§ 1-01-16, 27-20-49).

NOTE: Expert witness fees for juvenile cases are NOT reimbursable. An expert witness in a juvenile case is only entitled to reimbursement as listed in N.D.C.C. §§ 31-01-16, 27-20-49.

What forms should be used and how often should reimbursement requests be submitted?

Please complete a Prosecution Witness Fee Reimbursement Request for each witness for which reimbursement is being requested. The Prosecution Witness Fee Reimbursement Request should be signed by the witness and must be signed by an authorizing county official (judge, state's attorney, county auditor, or clerk of court). Any Prosecution Witness Fee Reimbursement Request which does not include all the necessary information will be returned to the county for completion.

If you are requesting reimbursement for more than five witnesses, please use the Reimbursement Roster. This will make it easier for the county to track what has been reimbursed and what has not.

Reimbursement requests should be submitted at least quarterly, and may be submitted as often as monthly.

Can I request payment be made to individual witnesses?

All checks will be made payable to the county. We simply do not have the staff or funds to issue individual checks to individual witnesses.

What expenses qualify for reimbursement and what rates are presently in effect?

The following are the reimbursable expenses and rates effective August 1, 2005:

Compensation for being a witness is \$25 a day (N.D.C.C. § 31-01-16).

NOTE: A witness who is subpoenaed in two or more cases by the same party shall be entitled to ONE compensation only from such party for the same day's attendance or travel (N.D.C.C. § 31-01-17). No matter how many times during the day a witness is called to the stand to testify, he may only receive ONE \$25 compensation.

Compensation for mileage for a witness is **37.5** cents per mile (N.D.C.C. § 54-06-09), EXCEPT for travel **300** miles outside the borders of North Dakota which is reimbursable at 18 cents a mile (see N.D.C.C. § 54-06-09(3)).

We may reimburse the actual amount of a witness's commercial travel (plane, train, or bus) fare. However, any request for commercial travel fare reimbursement must be documented by a receipt or invoice showing the actual cost of the fare. If a receipt or invoice is not attached, the reimbursement request will be returned to the county with a request to provide such a receipt or invoice.

In-state lodging is reimbursable up to **\$50** plus state or local taxes on **\$50** (N.D.C.C. § 44-08-04(2)(d)) and must be documented by a receipt.

Example: If you were charged **\$55** a night for lodging and **\$10** for state and local taxes on that lodging, the total of **\$65** would not be reimbursable. We would, however, be able to pay **\$50** of the room expense and the prorated portion of the **\$10** in taxes on the **\$50** lodging expense.

How to calculate prorated taxes on **\$50** maximum:

$$\text{\$50.00} \div \text{\$55.00} = 90.91\%$$

$$90.91\% \times \text{\$10.00} = \text{\$9.09} \text{ -- This is the amount of taxes we may reimburse.}$$

$$\text{\$50.00} + \text{\$9.09} = \text{\$59.09} \text{ -- This is the entire amount we may reimburse of the \$65 total room charge.}$$

Out-of-state lodging is reimbursable at actual cost, BUT must be supported by a receipt.

Reimbursements for meals are paid when the witness has been in travel status for four hours or more. In order to claim the second and third quarters, the witness must be in travel status one hour before the start of the quarter being claimed and travel status must extend at least one hour into the quarter being claimed. If a witness qualifies for meals as described above, the following rates will apply (see N.D.C.C. § 44-08-04(2)):

1st quarter -6 a.m. to 12 noon (Reimbursement payable if travel began before 7 a.m. and totaled at least 4 hours.)	<b>\$ 5.00</b>
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2nd quarter - 12 noon to 6 p.m. **\$ 7.50**  
(Reimbursement payable if travel began before 11 a.m., lasted until 1 p.m., and totaled at least four hours.)

3rd quarter - 6 p.m. to 12 midnight **\$12.50**  
(Reimbursement payable if travel began before 5 p.m., lasted until 7 p.m., and totaled at least four hours.)

TOTAL IN-STATE MEALS PER DAY **\$25.00**

Example: A witness travels from Fargo to Bismarck to testify at a trial. The witness leaves Fargo at 10:50 a.m. and doesn't return to Fargo before 2:20 p.m. This witness may be reimbursed for lunch. If this witness must remain in Bismarck most of the afternoon waiting to testify or testifying or if the prosecutor would ask the witness to remain in Bismarck for the afternoon and the witness returns to Fargo after 7 p.m., he/she may be reimbursed for supper. However, if a witness wishes to remain in Bismarck after testifying just to watch the trial, visit friends or relatives, shop, etc., that witness cannot claim meal reimbursements.

Deposition costs are a reimbursable expense if the deposition is used in lieu of the witness's testimony at a trial or hearing.

Interpreter costs are a reimbursable expense for witnesses testifying at trial.

#### WE DO NOT PAY:

Reimbursements for non-criminal traffic court cases. (There has been confusion concerning traffic court cases. See N.D.C.C. §§ 39-06.1-05, 39-06.1-10(b). If you are unsure whether a traffic offense is considered criminal or non-criminal, please check with your city attorney or county state's attorney to make that determination.)

Jury costs.

Investigative costs including the costs of experts or other entities or persons incurred in the investigation of a criminal case, the testing, retrieval, or storage of evidence, and other trial preparation or investigative costs.

Discovery depositions or depositions not used in lieu of the witness's/deponent's testimony in a criminal or juvenile case.

Defense costs, witness fees, or expenses for cases not falling under the Uniform Juvenile Court Act.

Expenses associated with service of process such as subpoena costs.

Except for a case falling under the Uniform Juvenile Court Act, any costs or expenses incurred in non-criminal offense cases, civil cases, mental health proceedings, and other non-criminal actions.

Jail or transportation costs.

Any other costs or expenses not within statutory authority.

The above list is not inclusive. If you have questions whether certain expenses are reimbursable, please review the North Dakota Century Code citations listed above pertaining to the expense or contact Deb Matzke at 701-328-4295.

NOTE: Changes made to this document since the last update in January 2004 appear in *italics* and **bold**.